

REMARKS:

Status of claims and amendments

Claims 1-7 are pending in the application. In the Office Action dated February 13, 2006, the Examiner rejected claims 1 and 5 under 35 U.S.C. 102(b) as being anticipated by Hillman et al., rejected claim 2 under 35 U.S.C. 103(a) as being unpatentable over Hillman in view of Yoshida, and objected to claims 3, 4, 6, and 7 as being dependent upon a rejected base claim but containing allowable subject matter.

In this amendment, claim 1 has been amended to include the subject matter of original claim 2, and two limitations of original claim 3 which the Examiner commented on as distinguishing the cited prior art. Claim 4 has been amended to include the limitations of the original claim 1 and now is allowable as an independent claim. Claim 5 has been amended to include two limitations of original claim 6; that is, the same limitations as were added to claim 1 from claim 3. Claim 2 has been canceled. Claim 3 was amended to depend from amended claim 1 rather than canceled claim 2, and to delete the limitations added into claim 1. Claim 6 was amended to delete the limitations added into claim 5, from which it depends. No new matter was added.

Allowable subject matter

In the Office Action dated February 13, 2006, the Examiner indicated that claims 3 and 6 were allowable because “the prior art does not teach or reasonably suggest in combination...that the pre-fill condition includes that the automatic transmission is in a first speed for the first time after the engine is restarted...[or] a difference between the fluid temperatures of before the engine is stopped and after the engine is restarted is greater than a predetermined difference” (page 4, under heading “allowable subject matter”).

These limitations have been added independent claims 1 and 5. While all of the limitations of claims 3 and 6, respectively, have not been moved forward to the independent claims, these specific limitations are not shown or suggested in the cited prior art. Applicant therefore submits that claims 1 and 5, as well as dependents thereon, are patentable over Hillman and Yoshida.

Conclusions

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance is respectfully requested.

Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060944-0149).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas D. Kohler", is written over a horizontal line.

May 15, 2006

Date

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